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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,730	07/14/2003	Nicholas deBeer	TI-02-01	1584
40518	7590	08/30/2006	EXAMINER	
LEVINE BAGADE HAN LLP 2483 EAST BAYSHORE ROAD, SUITE 100 PALO ALTO, CA 94303			SWEET, THOMAS	
			ART UNIT	PAPER NUMBER
			3738	

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,730

Applicant(s)

DEBEER, NICHOLAS

Examiner

Thomas J. Sweet

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/03/2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 1-33 and 44-49 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03/24/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, species A (figs. 1-12, 22, 23 and 35 and claims 34-43 in the reply filed on 07/03/2006 is acknowledged.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 34-37 and 39-43 rejected under 35 U.S.C. 102(e) as being anticipated by Bao et al. (US Pgpub 2003/0220649). Bao et al. disclosed a method of providing an encapsulation device to a desired location (fig. 5), the method comprising; expanding a porous (16 and/or [0073]) body (as shown in fig. 5) to conform to a shape of a target (70) by introducing a first fluid (gas or fluid [0080] such as saline [0229]) into an opening in the body (70); introducing a second fluid into the porous body (curable biomaterial/adhesive [0189]) to displace the first fluid through the porous body ([0073] and/or [0189]); and allowing the second fluid to cure to secure the porous body to the target.

With regard to claims 35-37, the step of inserting a wire reinforcement into the porous body [0061], securing the wire reinforcement to the interior of the porous body[0061], and removing the wire reinforcement from the porous body[0061].

With regard to claim 43, the second fluid is more viscous than the first fluid (inherent since the first fluid displaces the second).

Claims 34-37 and 39-43 are rejected under 35 U.S.C. 102(a) as being anticipated by Porter et al. (US 6,547,804). Porter et al. discloses a method of providing an encapsulation device to a desired location (figs. 1a-6), the method comprising; expanding a porous body (fig. 2) to conform (to be or become similar in form or character) to a shape of a target (an aneurysm) by introducing a first fluid (saline, 30) into an opening in the body (25); introducing a second fluid (32, solidifying/adhesive) into the porous body to displace the first fluid through the porous body (col 4-5, lines 32-5); and allowing the second fluid to cure to secure the porous body to the target.

With regard to claims 35-37, the step of inserting a wire reinforcement into the porous body, securing the wire reinforcement to the interior of the porous body, and removing the wire reinforcement from the porous body (col 3-4, lines 42-15).

With regard to claim 43, the second fluid is more viscous than the first fluid (inherent since the first fluid displaces the second).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bao et al. Bao et al discloses a method as discussed above including the use of polyethylene for the body material. However, Bao et al remains silent as to specifically using (ePTFE) or (PET). It is well known in the art of surgical balloons to use (ePTFE) or (PET) for the purpose of providing a biocompatible balloon material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute (ePTFE) or (PET) for the balloon material of Bao et al since they are biocompatible and such a modification amounts to mere substitution of one functionally equivalent balloon material for another within the art of surgical balloons.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Porter et al. Porter et al discloses a method as discussed above. However, Porter et al remains silent as to

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specifically using (ePTFE) or (PET). It is well known in the art of surgical balloons to use (ePTFE) or (PET) for the purpose of providing a biocompatible balloon material. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute (ePTFE) or (PET) for the balloon material of Porter et al since they are biocompatible and such a modification amounts to mere substitution of one functionally equivalent balloon material for another within the art of surgical balloons.

Conclusion

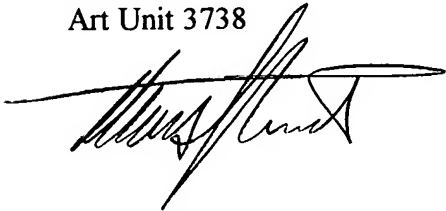
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. FELT et al. (US PGpub 2001/0004710), Butler et al. (US 5,902,745), Trieu, Hai H. (US PGpub 2004/0133280) and Felt et al. (US PGpub 2002/0156531)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Sweet whose telephone number is 571-272-4761. The examiner can normally be reached on 6:30 am - 5:00pm, M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M. McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thomas J Sweet
Examiner
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A handwritten signature in black ink, appearing to read 'Thomas J Sweet', with a long horizontal stroke extending to the right.